

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**AMIN MOHAMMAD,**

**Petitioner,**

**v.**

**Civil Action No. 2:10-CV-13  
(Maxwell)**

**JOEL ZIEGLER, Warden,**

**Respondent.**

**ORDER**

On February 4, 2010, *pro se* petitioner Amin Mohammad filed an Application for Habeas Corpus Pursuant to 28 U.S.C. § 2241, seeking an Order directing the Bureau of Prisons to remove from his record all of the charges and sanctions resulting from an Incident Report.

This case was referred to United States Magistrate Judge James E. Seibert for initial review and report and recommendation in accordance with Rule 83.09 of the Local Rules of Prisoner Litigation Procedure.

After conducting an initial screening and review, Magistrate Judge Seibert determined that summary dismissal was not warranted and, by Order to Show Cause entered February 8, 2010, gave the respondent thirty days in which to file a reply to the petitioner's § 2241 Application (Doc. 6).

On April 8, 2010<sup>1</sup>, a Motion to Dismiss or, in the Alternative, Motion for Summary

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<sup>1</sup>By Order entered March 5, 2010, Magistrate Judge Seibert granted a Motion for Enlargement of Time filed by the respondent on March 4, 2010, and extended the time for the respondent to file a response to the Court's February 8, 2010, Show Cause Order to April 8, 2010 (Doc. 10).

Judgment and Response to Order to Show Cause was filed by the respondent (Doc. 16). A Memorandum in Support of Respondent's Motion to Dismiss, or, Alternatively Motion for Summary Judgment and Response to Order to Show Cause was also filed herein by the respondent on April 8, 2010 (Doc. 17).

On April 9, 2010, Magistrate Judge Seibert entered a **Roseboro** Notice advising the petitioner of his right to file any opposition to the respondent's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment within twenty-eight days from the date of said Notice (Doc. 18). The docket in the above-styled civil action reflects that no opposition to the respondent's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment has been filed by the petitioner.

On June 1, 2010, Magistrate Judge Seibert issued a Report and Recommendation wherein he recommended that the respondent's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment be granted and that the petitioner's § 2241 Application be dismissed as moot (Doc. 20). Specifically, Magistrate Judge Seibert found that the petitioner's § 2241 Application was moot in light of the fact that the incident report in question, Incident Report 1897326, had been expunged and the sanctions received by the petitioner in connection therewith, namely a loss of visiting privileges for ninety days, had been removed as well.

In his Report and Recommendation, Magistrate Judge Seibert provided the parties with fourteen days from the date they were served with a copy of said Report and Recommendation in which to file objections thereto and advised the parties that a failure to timely file objections would result in the waiver of their right to appeal from a judgment

of this Court based upon said Report and Recommendation.

The Court's review of the docket in the above-styled civil action reveals that, to date, no objections to Magistrate Judge Seibert's June 1, 2010, Report and Recommendation have been filed. Accordingly, it would appear that this matter is now ripe for review.

Upon consideration of Magistrate Judge Seibert's June 1, 2010, Report and Recommendation, and having received no written objections thereto<sup>2</sup>, it is

**ORDERED** that the Report and Recommendation entered by United States Magistrate Judge James E. Seibert on June 1, 2010 (Doc. 20), be, and the same is hereby, **ACCEPTED** and this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the respondent's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment (Doc. 16) be, and the same is hereby, **GRANTED**. It is further

**ORDERED** that the petitioner's Application for Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Doc. 1) be, and the same is hereby, **DISMISSED AS MOOT**.

It is further

**ORDERED** that the Clerk of Court shall enter judgment for the respondent. It is further

**ORDERED** that, should the petitioner desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within sixty (60) days

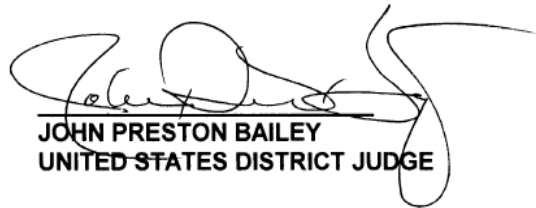
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<sup>2</sup>The failure of a party to file an objection to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See **Wells v. Shriners Hospital**, 109 F.3d 198, 199-200 (4th Cir. 1997); **Thomas v. Arn**, 474 U.S. 140, 148-153 (1985).

from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court of Appeals for the Fourth Circuit.

The Clerk of Court is directed to transmit a copy of this Order to the *pro se* petitioner and to counsel of record in the above-styled civil action.

**DATED:** July 30, 2010.



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE